

Small Business Administration

§ 121.1001

§ 121.904 When does SBA determine the size status of a business concern?

For compliance with programs of other agencies, SBA will base its size determination on the size of the concern as of the date set forth in the request of the other agency.

[67 FR 13716, Mar. 26, 2002]

PROCEDURES FOR SIZE PROTESTS AND REQUESTS FOR FORMAL SIZE DETERMINATIONS

§ 121.1001 Who may initiate a size protest or request a formal size determination?

(a) *Size Status Protests.* (1) For SBA's Small Business Set-Aside Program, including the Property Sales Program, or any instance in which a procurement or order has been restricted to or reserved for small business or a particular group of small business, the following entities may file a size protest in connection with a particular procurement, sale or order:

(i) Any offeror whom the contracting officer has not eliminated for reasons unrelated to size;

(ii) The contracting officer;

(iii) The SBA Government Contracting Area Director having responsibility for the area in which the headquarters of the protested offeror is located, regardless of the location of a parent company or affiliates, or the Associate Administrator for Government Contracting; and

(iv) Other interested parties. Other interested parties include large businesses where only one concern submitted an offer for the specific procurement in question. A concern found to be other than small in connection with the procurement is not an interested party unless there is only one remaining offeror after the concern is found to be other than small.

(2) For competitive 8(a) contracts, the following entities may protest:

(i) Any offeror whom the contracting officer has not eliminated for reasons unrelated to size;

(ii) The contracting officer; or

(iii) The SBA District Director, or designee, in either the district office serving the geographical area in which the procuring activity is located or the

district office that services the apparent successful offeror, or the Associate Administrator for 8(a) Business Development.

(3) For SBA's Subcontracting Program, the following entities may protest:

(i) The prime contractor;

(ii) The contracting officer;

(iii) Other potential subcontractors;

(iv) The responsible SBA Government Contracting Area Director or the Associate Administrator for Government Contracting; and

(v) Other interested parties.

(4) For SBA's Small Business Innovation Research (SBIR) Program, the following entities may protest:

(i) A prospective offeror;

(ii) The funding agreement officer;

(iii) The responsible SBA Government Contracting Area Director or the Assistant Administrator for Technology; and

(iv) Other interested parties.

(5) For the Department of Defense's Small Disadvantaged Business (SDB) Program, and any other similar program of another Federal agency, the following entities may file a protest in connection with a particular SDB procurement:

(i) Any offeror for the specific SDB requirement whom the contracting officer has not eliminated for reasons unrelated to size;

(ii) The contracting officer; and

(iii) The responsible SBA Area Director for Government Contracting, the SBA Associate Administrator for Government Contracting, or the SBA Associate Administrator for 8(a) Business Development;

(6) For SBA's HUBZone program, the following entities may protest in connection with a particular HUBZone procurement:

(i) Any concern that submits an offer for a specific HUBZone set-aside procurement that the contracting officer has not eliminated for reasons unrelated to size;

(ii) Any concern that submitted an offer in full and open competition and its opportunity for award will be affected by a price evaluation preference given a qualified HUBZone SBC;

(iii) The contracting officer; and